

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JERROD A. STALLING, Minor.

PEOPLE OF THE STATE OF MICHIGAN,

Petitioner-Appellee,

v

JERROD A. STALLING,

Respondent-Appellant.

UNPUBLISHED

August 16, 2005

No. 254173

Wayne Circuit Court

Family Division

LC No. 02-407013

Before: Whitbeck, C.J., and Sawyer and Fitzgerald, JJ.

PER CURIAM.

Respondent Jerrod Stalling appeals as of right from an order of disposition entered following a delinquency proceeding in which a jury determined that he committed first- and second-degree criminal sexual conduct.¹ We affirm. We decide this appeal without oral argument pursuant to MCR 7.214(E).

I. Basic Facts And Procedural History

This case arose in early summer of 2003 when the complainant, Stalling's seven-year-old cousin, told her mother that Stalling had engaged in sexual activity with her. On July 11, 2003, the complainant's mother took her to the police station, where the complainant told an officer that Stalling had touched her vagina twice and had her perform oral sex twice. She could not provide a specific date or a general time frame for the incidents, but the officer estimated that she made the report about a week after the incident had occurred.

At a jury trial, the complainant testified that one day while Stalling was in her bedroom watching television with her, he touched the skin of her "private parts" with his hand. When asked if Stalling had done anything else, the complainant said, "I don't think so." When asked if Stalling had done anything with her mouth, the complainant said that he made her engage in oral sex. As the prosecutor attempted to elicit a time frame for these acts, the complainant said she

¹ MCL 750.520b(1)(a); MCL 750.520c(1)(a).

thought they happened during the school year, but on cross-examination, the complainant said the incidents occurred during summer vacation, and that school “had been out for a while.” In either case, the complainant said she told her mother about them the same day, and thought she spoke to the police the same day as well. The complainant testified that Stalling performed each act just once, but she admitted that she probably told the police it happened more than once.

II. Sufficiency Of The Evidence

A. Standard Of Review

We review de novo challenges to the sufficiency of the evidence, taking the evidence in the light most favorable to the prosecutor and determining whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt.²

B. Witness Credibility

Stalling’s sole claim on appeal is that the evidence was insufficient to sustain the verdicts. Stalling does not dispute that the prosecutor presented evidence from which the jury could find that each element of the crimes charged had been proved beyond a reasonable doubt. Rather, he contends that the complainant’s testimony “had so many inconsistencies that it should have been found incredible by the jury.” We find Stalling’s argument unpersuasive. Apart from the fact that witness credibility is a matter of weight, not sufficiency, of the evidence,³ the trier of fact “may choose to believe or disbelieve any witness or any evidence presented in reaching a verdict.”⁴ In other words, “the issue of credibility is for the jury to decide and we will not resolve credibility issues anew on appeal.”⁵

Affirmed.

/s/ William C. Whitbeck
/s/ David H. Sawyer
/s/ E. Thomas Fitzgerald

² *People v Johnson*, 460 Mich 720, 723; 597 NW2d 73 (1999); *People v Herndon*, 246 Mich App 371, 415; 633 NW2d 376 (2001).

³ See *People v Scotts*, 80 Mich App 1, 9; 263 NW2d 272 (1977).

⁴ *People v Cummings*, 139 Mich App 286, 293-294; 362 NW2d 252 (1984).

⁵ *People v Milstead*, 250 Mich App 391, 404; 648 NW2d 648 (2002).